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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Sheri Winter
1017 Coloma Way
Roseville, CA 95667

Respondent.

Case No. 2007-119

OAH No.

STATEMENT OF ISSUES

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about May 1, 2006, the Board of Registered Nursing, Department of Consumer Affairs received an application for licensure as a registered nurse from Sheri Winter (Respondent). On or about April 11, 2006, Sheri Winter certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on July 14, 2006.

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws.

1 All section references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2761 of the Code states in pertinent part:

3 "The board may take disciplinary action against a certified or licensed nurse or
4 deny an application for a certificate or license for any of the following:

5 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

6 "(4) Denial of licensure, revocation, suspension, restriction, or any other
7 disciplinary action against a health care professional license or certificate by another state or
8 territory of the United States, by any other government agency, or by another California health
9 care professional licensing board. A certified copy of the decision or judgment shall be
10 conclusive evidence of that action.

11 5. Section 2762 of the Code states, in pertinent part:

12 "In addition to other acts constituting unprofessional conduct within the meaning
13 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
14 under this chapter to do any of the following:

15 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
16 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
17 or administer to another, any controlled substance as defined in Division 10 (commencing with
18 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
19 defined in Section 4022.

20 6. Section 480 of the Code states, in pertinent part:

21 "(a) A board may deny a license regulated by this code on the grounds that the
22 applicant has one of the following:

23 "(3) Done any act which if done by a licentiate of the business or profession in
24 question, would be grounds for suspension or revocation of license.

25 "The board may deny a license pursuant to this subdivision only if the crime or act
26 is substantially related to the qualifications, functions or duties of the business or profession for
27 which application is made.

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1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (License Restriction by Another Agency)

3 7. Respondent's application is subject to denial under section 2761 in that on
4 June 30, 2005, the California Board of Vocational Nursing, in case no. 6719, issued a
5 probationary license to respondent, subject to a three-year probation period with terms and
6 conditions.

7 SECOND CAUSE FOR DENIAL OF APPLICATION

8 (Committed Acts Which if Done by a Licentiate)

9 8. Respondent's application is subject to denial under section 480,
10 subdivision (a)(3) in that while employed as an office manager in a medical practice in Grass
11 Valley, California, Respondent committed acts which, if done by a licentiate of the profession,
12 would be grounds for revocation or suspension of a license. The circumstances are as follows:


13 a. On or about September 7, 2001, Respondent obtained 50 tablets of
14 Tylenol with Codeine #4, a controlled substance, when Julie Wilder (a co-worker) telephoned an
15 unauthorized prescription for the drug to a pharmacy. Such conduct would constitute grounds for
16 discipline against a licensee under Code section 2762, subdivision (a).

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 20 1. Denying the application of Sheri Winter for a registered nurse license;
21 2. Taking such other and further action as deemed necessary and proper;
22

23 DATED: 10/31/06

24 
25 RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant

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